

LOUIS M. BUBALA III, ESQ.
State Bar No. 8974
ARMSTRONG TEASDALE LLP
50 W. Liberty Street, Suite 950
Reno, NV 89501
Telephone: 775-322-7400
Facsimile: 775-322-9049
Email: lbubala@armstrongteasdale.com

**ELECTRONICALLY FILED ON
August 29, 2011**

Counsel for Stan Boyett & Son, Inc.
d/b/a Boyett Petroleum

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re: Case No.: BK-N-11-52653-BTB

V-R PROPERTY MANAGEMENT, Chapter 11

Debtor.

**REPLY IN SUPPORT OF MOTION
FOR RELIEF FROM THE
AUTOMATIC STAY, WITH
CERTIFICATE OF SERVICE**

Hearing Date: 8/30/11
Hearing Time: 2:30 p.m.

Creditor Stan Boyett & Son, Inc. ("Boyett") moved for relief from the automatic stay to evict Debtor at the retail location previously leased to Debtor at 2191 Pyramid Way in Sparks, Nevada (Ct. Dkt. #6, filed Aug. 19, 2011). Debtor opposed the motion (Ct. Dkt. #22, filed Aug. 26, 2011). The opposition appears to be the same brief that was filed in Debtor's first case (Case No. BK-N-11-51521-BTB, Ct. Dkt. #37, filed June 11, 2011).

The opposition should be overruled because it does not address the points raised by Boyett in the motion in the current case. Boyett first seeks relief to complete the eviction because the lease terminated before Debtor filed either its first or second case. To be sure, Debtor did not cure the deficiency owed on the lease prior to filing the second case. Therefore, there is no lease for Debtor to assume. Debtor's opposition only states that the first case was filed before the lease terminated. Boyett rebutted that argument in the first case. Although the petition was filed on the same day as the last day to cure the deficiency, the case was filed after the time allowed to cure the deficiency (Ct. Dkt. #64, filed June 28, 2011). Therefore, the stay did not arise prior to the termination of the lease.

1 Debtor does not address any of the other arguments raised in the motion, particularly the
2 multitude of cause for relief from the automatic stay under 11 U.S.C. § 362(d)(1). Debtor also does
3 not address the rationale for this repeat filing. Debtor has never responded to Boyett's inquiry about
4 the basis for filing the second case. There is no evidence of changed circumstances that might
5 warrant a second case. It appears Debtor filed its second case simply to forestall the eviction.

6 Finally, Debtor does not effectively address whether relief is warranted under 11 U.S.C. §
7 362(d)(2). Debtor simply provides a unilateral statement, unsupported by a declaration or any other
8 evidence, that the location is necessary for an effective reorganization. But there is no effective
9 reorganization in this case, given Debtor's financial situation as evidenced by its schedules and
10 statements, and Debtor's inability to take any steps towards reorganization over three months in the
11 first case immediately preceding this case,

12 Dated this 29th day of August, 2011

ARMSTRONG TEASDALE LLP

13 By: /s/Louis M. Bubala III
14 Louis M. Bubala III, Esq.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

1. On **Aug. 29, 2011**, I served the following document(s):

**REPLY IN SUPPORT OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY, WITH
CERTIFICATE OF SERVICE**

2. I served the above-named document(s) by the following means to the persons as listed below:

- a. **ECF System** (attach the "Notice of Electronic Filing" or list all persons and addresses):

PAUL W. FREITAG on behalf of Debtor V-R PROPERTY MANAGEMENT, A NEVADA CORPORATION

freitaglaw@yahoo.com, ecrealsolutions@yahoo.com

U.S. TRUSTEE - RN - 11

USTPRegion17.RE.ECF@usdoj.gov

- ☐ b. **United States mail, postage fully prepaid** (list persons and addresses):

- ☐ c. **Personal Service** (list persons and addresses)

I personally delivered the document(s) to the persons at these addresses:

- ☐ d. **By direct email (as opposed to through the ECF System)** (list persons and email addresses):

- ☐ e. **By fax transmission** (list persons and fax numbers):

- ☐ f. **By messenger:**

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 29th day of August, 2011.

L. Bubala

Name

/s/L. Bubala

Signature